

When custom order items such as personalized business calling cards and letterheads are sold, Retailers' Occupation Tax does not apply. However, sales of custom order items are subject to Service Occupation Tax liability. See 86 Ill. Adm. Code 130.1995. (This is a GIL.)

February 21, 2001

Dear Xxxxx:

This letter is in response to your letter dated January 2, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I recently purchased custom printed business cards and stationery and was charged full sales tax on these items.

I was under the impression that when a custom printed item was purchased that sales tax should be charged only on the amount allocated to the cost of the paper and not on the printing services, however, the store did not agree with me and as I stated previously charged sales tax on the full purchase price.

The amount of money involved is not substantial, however, I would appreciate your advising me as to what is the correct amount of sales tax to be paid when custom printing is purchased.

Thank you very much for your attention to this inquiry.

As a general rule, when a product is an item of general utility and serves substantially the same function as a stock or standard item, the product will be subject to Retailers' Occupation Tax liability when sold at retail. See the enclosed copy of 86 Ill. Adm. Code 130.2000. Items which serve substantially the same function are those which, when produced on special order, could be sold as produced to someone other than the original purchaser at substantially the same price. Calendars are typically such items of general utility. Gift tags may also fall into this category.

When custom order items are sold, Retailers' Occupation Tax does not apply. For example, as indicated in 86 Ill. Adm. Code 130.1995(b), enclosed, personalized business calling cards and letterheads are not subject to Retailers' Occupation Tax when sold. However, sales of custom order items are subject to Service Occupation Tax liability. For your general information, we are enclosing a copy of 86 Ill. Adm. Code 140.101 regarding sales of service and Service Occupation Tax.

Under the Service Occupation Tax Act, 35 ILCS 115/1 et seq., the purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. Servicemen may calculate their tax base in one of four ways: (1) separately stated selling price of the tangible personal property being transferred; (2) 50% of the entire bill; (3) Service Occupation Tax on the cost price of the tangible personal property being transferred if they are registered de minimis servicemen; or, (4) Use Tax on the cost price of the tangible personal property being transferred if the servicemen are de minimis and are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

Using the first method, servicemen may separately state the selling price of each item transferred as a result of sales of service. The tax is based on the separately stated selling price of the tangible personal property transferred.

Under a second method, if servicemen do not wish to separately state the selling price of the tangible personal property transferred, those servicemen must use 50% of the entire bill to their service customers as the tax base. Both of the above methods provide that in no event may the tax base be less than the cost price of the tangible personal property transferred. Under these methods, servicemen may provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of the sales of service.

The third way servicemen may account for their tax liability only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). See part (f) of the enclosed copy of 86 Ill. Adm. Code 140.101(f). Registered de minimis servicemen are authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of service. They remit the tax to the Department by filing returns and do not pay tax to suppliers. They provide suppliers with Certificates of Resale for the property transferred to service customers. They collect the corresponding Service Use Tax from customers.

The fourth method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under the Retailers' Occupation Tax Act. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service are less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicemen may pay Use Tax to their suppliers or may self-assess and remit Use Tax to the Department when making purchases from unregistered out-of-State suppliers. These servicemen are not authorized to collect "tax" from their service customers, nor are they liable for Service Occupation Tax.

When a retailer or serviceman overcollects tax, the over collected amount must be forwarded to the Illinois Department of Revenue if it is not returned to the customer. If the retailer or serviceman unconditionally refunds the overcollected amount to the customer, it can file a claim for credit to recover the erroneously remitted tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.